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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,084	04/15/2004	Jeffery R. Raymond	310151.412	7178
500 7590 12/02/2008 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 5400 SEATTLE, WA 98104				
EXAMINER				
BADJO, BARBARA P				
ART UNIT		PAPER NUMBER		
1612				
MAIL DATE		DELIVERY MODE		
12/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/825,084

Applicant(s)

RAYMOND ET AL.

Examiner

Barbara P. Badio

Art Unit

1612

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 5, 6, 9-21 and 24-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 22 and 23 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date ____

Final Office Action on the Merits

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Withdrawal of Finality of Last Office Action

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Status of the Application

3. Claims 1-29 are pending in the present application. Claims 5, 6, 9-21 and 24-29 stand withdrawn from further consideration as being drawn to a nonelected invention. Claims 1-4, 7, 8, 22 and 23 will be examined according to MPEP § 803.02.

Claim Rejections - 35 USC § 102

4. The rejection of claims 1-4, 22 and 23 under 35 USC 102(b) over Madaio et al. is withdrawn.

Claim Rejections - 35 USC § 103

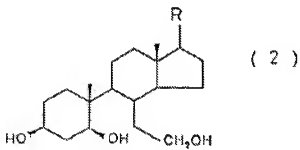
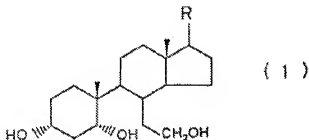
5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

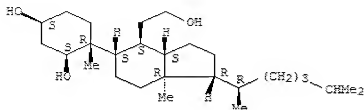
invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa (JP 05221901 A, 1993).

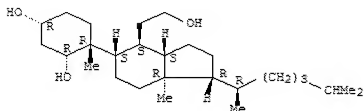
Niwa teaches 5,6-secosterols of following formulae:



useful as hypolipemic agents (see the attached English translation, especially section 0001). The reference teaches R is a hydrocarbon group inclusive of alkyl and alkenyl groups (see section 007). Niwa exemplifies compounds such as



and



The instant claims differ from the reference by reciting compounds not exemplified by the reference, i.e., the prior art compounds wherein R is alkenyl. However, as stated above Niwa teaches R can be an alkenyl group. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to make the prior art compounds wherein R is an alkenyl group with the reasonable expectation that the compounds obtained would have similar properties and use as the prior art genus as a whole. The motivation would be based on the desire to obtain additional hypolipemic agents as taught by Niwa.

Claim Objections

7. Claims 7 and 8 are objected to as being dependent upon a rejected base claim. The instant claims are allowable to the extent they read on the elected species.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone Inquiry

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara P. Badio whose telephone number is 571-272-0609. The examiner can normally be reached on M-F from 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frederick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Barbara P. Badio/
Primary Examiner, Art Unit 1612